

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIAN EVANS,

Plaintiff - Appellant,

V.

FRANK PETERSON; et al.,

Defendants - Appellees.

No. 04-16528

D.C. No. CV-04-00135-HG

JUDGMENT

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

DEC 16 2005

at 4 o'clock and 30 min. M
SUE BEITIA, CLERK

Appeal from the United States District Court for the District of Hawaii
(Honolulu).

This cause came on to be heard on the Transcript of the Record from the
United States District Court for the District of Hawaii (Honolulu) and was duly
submitted.

On consideration whereof, it is now here ordered and adjudged by this
Court, that the judgment of the said District Court in this cause be, and hereby is
AFFIRMED.

Filed and entered 07/13/05

A TRUE COPY
CATHY A. CATTERSON
Clerk of Court
ATTEST

DEC 07 2005

by: Ruben Talavera
Deputy Clerk

as

DOCKETED

ORIGINAL

NOT FOR PUBLICATION

FILED

JUL 13 2005

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

BRIAN EVANS,

Plaintiff - Appellant,

v.

FRANK PETERSON; et al.,

Defendants - Appellees.

No. 04-16528

D.C. No. CV-04-00135-HG

MEMORANDUM*

**Appeal from the United States District Court
for the District of Hawaii
Helen Gillmor, District Judge, Presiding**

Submitted July 11, 2005**

**Before: SCHROEDER, Chief Judge, RAWLINSON and BYBEE, Circuit
Judges.**

**Brian Evans, a professional singer, appeals pro se the district court's
dismissal of his diversity action alleging fraud and breach of a recording contract
against Frank Peterson, a German music producer, Nemo Studios, a German music**

*** This disposition is not appropriate for publication and may not be cited
to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.**

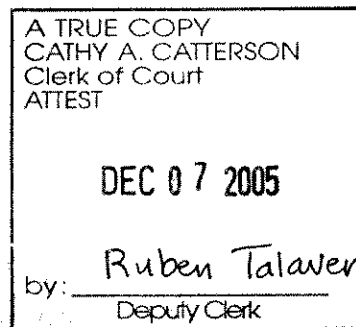
**** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).**

recording company, and Sarah Brightman, a British singer. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's determination that it lacks personal jurisdiction, *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004), and review for abuse of discretion the district court's denial of leave to amend, *Gompper v. VISX, Inc.*, 298 F.3d 893, 898 (9th Cir. 2002). We affirm.

Evans did not allege that the defendants had "continuous and systematic general business contacts" with Hawaii upon which general jurisdiction could be based. *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 416 (1984). Similarly, Evans failed to show a basis for specific jurisdiction because he did not allege facts indicating that his claim arose from the defendants' forum-related acts, that the defendants purposefully availed themselves of the privilege of conducting activities in Hawaii, that the defendants' conduct and connection with Hawaii were such that they could have reasonably anticipated being haled into court there, and that jurisdiction over the defendants would comport with fair play and substantial justice. *See Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474-76 (1985). Accordingly, the district court properly concluded that it lacked personal jurisdiction over the defendants.

The district court did not abuse its discretion when it dismissed Evans' complaint without leave to amend, because the moving papers and oral argument revealed that amendment would be futile. *See Gompper*, 298 F.3d at 898.

AFFIRMED.



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CLOSED

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04-16528 Evans v. Peterson, et al

BRIAN EVANS
Plaintiff - Appellant

Brian Evans
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v.

FRANK PETERSON
Defendant - Appellee

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NEMO STUDIOS
Defendant - Appellee

Nenad Krek, Esq.
(See above)
[COR LD NTC ret]

ERLER MARCO
Defendant - Appellee

No appearance
No appearance

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CLOSED

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BRIAN EVANS

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v.

FRANK PETERSON; SARAH BRIGHTMAN; NEMO STUDIOS; ERLER MARCO

Defendants - Appellees